

Amendment No. 1 to HB0592

**Lamberth
Signature of Sponsor**

AMEND Senate Bill No. 1135

House Bill No. 592*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-7-103, is amended by deleting subdivisions (a)(2) and (a)(3) and substituting instead the following:

(2) When the person has committed a felony or a misdemeanor, though not in the officer's presence;

(3) When a felony or misdemeanor has in fact been committed, and the officer has reasonable cause for believing the person arrested has committed the felony or misdemeanor;

SECTION 2. Tennessee Code Annotated, Section 40-7-118, is amended by adding the following new subsection:

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(1) A peace officer who has arrested a person for the commission of a misdemeanor shall issue a citation to the arrested person to appear in court in lieu of the continued custody and the taking of the arrested person before a magistrate if:

(A) The offense was a violation of either § 39-17-418, involving the simple possession or casual exchange of a controlled substance, or § 39-17-425(a), involving the possession of drug paraphernalia;

(B) The officer seized the controlled substance, drug paraphernalia, and any weapons on the arrested person;

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(C) The officer does not believe there is a reasonable likelihood that the arrested person will fail to appear in court; and

(D) The arrested person does not have any outstanding arrest warrants and does not have a prior drug conviction.

(2) If the peace officer is serving an arrest warrant or capias issued by a magistrate for the commission of either of the two (2) offenses specified in this subsection, it is in the discretion of the issuing magistrate whether the person is to be arrested and taken into custody or arrested and issued a citation in accordance with this section in lieu of continued custody. The warrant or capias shall specify the action to be taken by the serving peace officer, who shall act accordingly.

SECTION 3. This act shall take effect July 1, 2015, the public welfare requiring it.